



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed October 13, 2015, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF 58.08(2)(b), to review a decision by the Rock County Department of Social Services in regard to Kinship Care, a hearing was held on November 17, 2015, at Janesville, Wisconsin.

The issue for determination is whether the agency erred in its termination of Kinship benefits effective October 31, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: [REDACTED], Kinship Care Worker
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Rock County.
2. Petitioner had received kinship benefits for more than one year.

3. At the time of eligibility renewal in September, the agency learned that petitioner's son used the home address as his address with the Department of Corrections. The son does live in the home with petitioner and the kinship child.
4. The son has a history of criminal convictions including 4th Degree Sexual Assault.
5. The agency issued a termination letter dated October 7, 2015 that incorrectly provided petitioner with information that she had a right to appeal to DHA.
6. Petitioner filed a request for hearing with DHA on October 13, 2015.

DISCUSSION

At the time of hearing, petitioner agreed that her son lives in the home and she has no disagreement with the agency's action. Petitioner conceded that the son lives with her. She presented no argument.

Eligibility for Kinship Care payments is governed by state law. Wis. Stat. § 48.57(3m); Wis. Admin. Code § DHS Chapter 58. Under state law, a person must satisfy several requirements to be eligible for Kinship Care. Wis. Stat. § 48.57(3m)(am); Wis. Admin. Code § DHS 50.04. If a person satisfies these requirements, he or she is eligible for Kinship Care.

One of the requirements for Kinship Care is that the Kinship Care relative and any other adult resident of the Kinship Care relative's home not have any arrests or convictions that could adversely affect the child or the Kinship Care relative's ability to care for the child. Wis. Stat. § 48.57(3m)(am)(4); Wis. Admin. Code § DHS 50.04(2), see also, Wis. Stat. § 48.57(3p)(fm)1m. A denial based on this requirement cannot be appealed to DHA. Wis. Stat. § 48.57(3m)(f) . Wis. Admin. Code § DHS 58.08(2)(a). This means, in legal language, that DHA has no jurisdiction. Therefore, this matter must be dismissed.

Although DHA has no jurisdiction in this matter, the law provides that a "review" by the County (not involving DHA) may be requested according to procedures provided for by law. Wis. Admin. Code § DHS 58.08(2)(a)(1)(a).

CONCLUSIONS OF LAW

For the reasons explained above, DHA does not have jurisdiction in this matter.

NOW, THEREFORE, it is **ORDERED**

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.



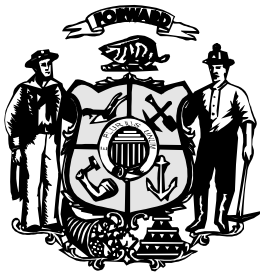
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of January, 2016

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 7, 2016.

Rock County Department of Social Services

DCF - Kinship Care

DCF - Kinship Care